

REMARKS

Claims 1-25, 29-48 and 51-87 were pending in the Office Action. Upon entry of the present paper, claims 84-87 are amended.

The following objections and rejections were made in the Office Action:

- claims 84-87 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement;
- claims 84-87 stand rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter;
- claims 1-11, 21-23, 33-35, 42-44, 46-58, 67-69, 76-88 and 84-87 stand rejected under 35 U.S.C. 103(a) as being unpatentable over DIG35 Specification Metadata for Digital Images version 1.0, by Digital Imaging Group, Inc. (“DIG”) in view of Balabanovic et al. (U.S. Patent N. 6,976,229); and
- claims 12-20, 24-24, 29-32, 36-41, 45, 59-66, 70-75 and 79-83 stand rejected under 35 U.S.C. 103(a) as being unpatentable over DIG, Balabanovic et al., and in view of Delorme et al. (U.S. Patent No. 6,321,158)

Applicant respectfully traverses these rejections.

Rejections under 35 U.S.C. §101 and §112

Regarding the §101 and §112 rejections of claims 84-87, Applicant has amended these claims to recite “computer readable memory.” Support for this feature may be found on page 22 lines 1-6 of Applicant’s specification, which discloses, “Therefore it

shall be appreciated that in addition to mobile visual communication devices, the invention may be employed e.g. in any image archive and or browsing software run e.g. in an ordinary desktop computer.” Applicant respectfully submits that one of ordinary skill in the art of Applicant’s claims would understand that a desktop computer inherently includes computer readable memory, and would understand that computer readable memory is not a signal. Applicants respectfully request that the §101 and §112 rejections be withdrawn.

Rejections under 35 U.S.C. §103(a)

A rejection on obviousness grounds must account for all limitations, and it must be supported by some articulated reasoning with a rational underpinning – it must make sense. See, e.g., MPEP 2143.03 (All Claim Limitations Must Be Considered); and KSR Int'l v. Teleflex, Inc., 550 US 398, 82 USPQ2d 1385, 1396 (2007). In the instant case, Applicant maintains its position from its previous response that the Office Action’s alleged combinations omit claim features, and lack the required rational underpinning. Applicant respectfully submits that the Office Action reads into the cited sections of DIG, content that is, in fact, simply not disclosed.

All of the pending independent claims (1, 41, 42, 45, 46 and 84) recite language regarding displaying at a user equipment a version of the image with a visual effect and a version of the image without the visual effect in a predetermined time sequence.

Applicant finds no disclosure of such a technique in the cited sections of DIG. Instead, Applicant respectfully submits that DIG discloses an old technique of making notes on the back of a photograph or in a photo album (See Dig, page iii, para. 3), and

discloses a new digital way of doing the same for digital images. To the extent that DIG may mention including in the metadata information about processing the image, DIG does not disclose the displaying of the processed image and the non-processed image in a predetermined time sequence.

In comparison, the present application describes, in one example, displaying an image with a visual effect and without the visual effect in a predetermined time sequence for the purpose of conveying, in a graphical way, information to the user about the context in which the image was captured. DIG does not teach or suggest any such similar idea or any concept that could remotely relate to displaying an image with a visual effect and without the visual effect in a predetermined time sequence.

In response to the Response to Arguments on pages 2-4 of the Office Action, Applicant provides the following specific remarks.

The Office Action, page 2 line 21 - page 3 line 3, makes reference to page 3 of DIG and states that "it would have been obvious to one of ordinary skill in the art to recognize the teachings of DIG covers the visual effect of the claimed invention." Applicant can find no disclosure at this cited section of metadata that is used to generate a visual effect, and particularly not metadata that is used to display the image with a visual effect and without the visual effect in a predetermined time sequence. Applicant understands that all the examples mentioned at page 3 of the Office Action are examples of the kind of textual information that would have been written on the back of a photograph or in a photo album, as mentioned at page iii of DIG, such as textual information that explains differences between a plurality of similar beach images. DIG does not disclose, and one of skill in the art would not understand such textual /

description information to be visual effect information for displaying the image with a visual effect.

The Office Action, at the bottom of page 3, also makes reference to Figure 2-3 of DIG and states that “The effects data are also part of the metadata section.” However, DIG, at the bottom of page 4, indicates that Figure 2-3 is intended to illustrate alternative file formats for including metadata with image data in a file. DIG does not disclose including, in any of the three image models illustrated in Figure 2-3, any metadata that is used to display the image with a visual effect and without the visual effect in a predetermined time sequence.

The Office Action, at the top of page 4, makes reference to page 8, section 3.1 of DIG, and places particular emphasis on the reference there to “parameters for image processing that change the visual appearance by arbitrary cropping, rotation or other transformations.” We understand that the Office Action is of the view that this example of metadata comprises information about how the image should be displayed. However, DIG does not disclose displaying a version of the image contrary to this information (i.e. without the cropping, rotation or other transformations), and particularly no disclosure of displaying the two versions in a predetermined time sequence.

The Office Action, at page 4 lines 7 to 12, interprets a “predetermined time sequence.” The Office Action states, “Since the visual effect information is covered by the metadata of the DIG, then, one/an application may update or delete existing metadata, and may create additional metadata. Periodically the application updates the image’s metadata. ... [B]y deleting the metadata the image data is displayed, and periodically may be referred (examiner’s interpretation) as a predetermined time sequence.” The

Office Action has not substantiated its interpretation with any support from DIG. For example, the Office Action does not indicate where he considers that DIG discloses “updating or deleting existing metadata” or “creating additional metadata,” or “periodically updating the image’s metadata.” More particularly, DIG mentions metadata comprising textual, description information to accompany the image, and the Action has not indicated where he considers that DIG discloses periodically changing metadata that relates to how the image should be displayed.

Moreover, even if DIG were to disclose periodically changing such metadata, which Applicant does not concede, DIG does not automatically follow that there is also a periodic display of the image. For example, in the absence of any specific disclosure to display the image whenever metadata is changed, the image, might only be displayed when there is a specific request from a user to view the image.

Finally, the Office Action, at the bottom of page 4, makes reference to Figure 3-1 of DIG. Again, Figure 3-1 of DIG does not disclose digital image format metadata that is used to display the image with a visual effect and without the visual effect in a predetermined time sequence.

Balabanovic et al. and Delorme et al. do not overcome these deficiencies in DIG. Thus, independent claims 1, 41, 42, 45, 46 and 84 are allowable over the alleged combinations. The claims which depend from one of claims 1, 41, 42, 45, 46 and 84 are also allowable for at least the same reasons.

CONCLUSION

For at least the foregoing reasons, the pending claims are believed allowable. If, however, the Examiner feels that additional discussion and/or amendment would be helpful, the Examiner is invited to telephone the Applicants' undersigned representative at the number appearing below.

Respectfully submitted,

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Dated this 16th day of October, 2009

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